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MEMORANDUM

SUBJECT: Impact of H.R. 6227 on Those Statutory Authorities and Personnel Programs Which Have as Their Purpose the Protection of Intelligence Sources and Methods

1. Section 7171(b) could conflict with Section 102(d)(3) of the National Security Act of 1947 which charges the Director of Central Intelligence with responsibility for protecting intelligence sources and methods from unauthorized disclosure.

The unique and exacting responsibilities of the Central Intelligence Agency may require speedy and vigorous investigations into employee misconduct in order to protect sensitive information from unauthorized disclosure. For example, where an employee has violated security procedures and thereby compromised sensitive intelligence materials, the Director must have the discretion to act immediately--even where this requires interviewing the employee--in order to protect the information involved. Under current Agency standards, the employee responsible would be expected to come forward immediately and to cooperate fully with investigators to protect the intelligence assets which he had jeopardized. Under H.R. 6227, an employee could turn an interview into an adversary procedure and, by insisting on representation, could delay being questioned for up to five days. This could result in the compromise of information in a case where the loss might have been avoided altogether.

2. Sections 7171(b) and 7172(b) conflict with section 102(c) of the National Security Act of 1947 which provides that the Director of Central Intelligence has discretionary authority to terminate the employment of any officer or employee of the Central Intelligence Agency whenever he shall deem such termination necessary or advisable in the interests of the United States.

Unlike Civil Service employees who have a "statutory expectancy of continued employment," Central Intelligence Agency personnel serve subject to section 102(c) of the National Security Act of 1947 and have no "property interest" in their position. This reflects congressional recognition that in extraordinary cases, the interests of the United States might require the Director to act summarily in

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personnel matters in order to protect and further the nation's foreign intelligence efforts. For example, in a situation where immediate removal of an employee was absolutely necessary to protect the secrecy of an intelligence project, there should be no competing job tenure claims then or in the future. H.R. 6227 fundamentally modifies the National Security Act of 1947 in this regard. It would impose an inconsistent and rigid set of statutory rights geared to the employment interests of individuals rather than to the intelligence interests of the nation.

3. The provisions of H.R. 6227 would seriously undermine personnel and security programs which have as their purpose the protection of intelligence sources and methods.

In fulfilling its statutory responsibilities, the Central Intelligence Agency has devised personnel and security programs which, in many respects, are unique. These programs are designed not only to protect the national security but also the rights and privacy of Agency employees. They also reflect the very important practical factors which place a special responsibility upon the Agency to ensure loyalty, security consciousness, and the personal integrity and stability of its employees.

All opposition services assign overriding priority to penetrating U.S. intelligence organizations by uncovering and exploiting the weaknesses of our personnel. Intelligence personnel are not only attractive targets but in many cases particularly accessible ones. They often must carry out their demanding and sometimes dangerous assignments completely alone and in hostile areas, subject to severe psychological pressures. In these circumstances, any vulnerabilities in their character or loyalty may surface and be detected and exploited by an ever alert opposition. The comprehensive personnel and security programs developed by this Agency to meet these unique hazards are predicated on bonds of trust, cooperation and mutual support among all Agency employees. This attitude of trust and confidence is a critical imperative in identifying and attending to potential problems before they can cause serious damage. The adversary posture encouraged by the requirements of H.R. 6227 would undermine this firm basis of understanding and cooperation which sustains the integrity of an intelligence organization.

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